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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/597,940 06/20/00 TIEDEMANN

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WM01/0711

EXAMINER

QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

CORRIELUS, J

ART UNIT	PAPER NUMBER
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2631

DATE MAILED:

07/11/01

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

SS

Office Action Summary

Application No.
09/597,940

Applicant(s)
Tiedemann et al

Examiner
Jean B. Corrielus

Art Unit
2631



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 21, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 15-22 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

Specification

1. The amendment filed on 6/20/00 has not been entered because it's too long. A substitute specification excluding claims is required pursuant to 37 CFR 1.125(a) to correct for the informalities as noted in the preliminary amendment dated 6/20/00.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

2. The substitute specification filed 6/21/01 has not been entered because it does not conform to 37 CFR 1.125(b) because: the pages have not been numbered.

Claim Rejections - 35 USC § 112

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3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 recites the limitations of “wherein the cause of the transmission power increase may be a random fade condition or a continuing fade condition, if the cause of the transmission power increase is a random fade condition, then reducing the transmission power at a first predetermined rate for a first predetermined time period in response to the transmission power increase; if the cause of the transmission power increase is a continuing fade condition, maintaining the transmission power, however, there is no support for such limitations as claimed. The disclosure at page 5, lines 14-18 only teaches that the base station examines the pattern of incoming power control message to determined characteristics of the fade and use the estimated fade to control changes that need to be made. One skill in the art would not be able to make and/or use the invention as claimed. Claim 15 recites the limitations of “ determining a characteristic of a propagation path between said communication station and a second communication station; selecting a power control step size in accordance with said characteristic; adjusting said transmission power in accordance with said power control commands and said power control step

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size.” However, the specification, as filed does not provide support for such limitations as claimed.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Henriksson US Patent No. 5,128,965.

Henriksson discloses a method and apparatus having the capability of controlling transmission power of variable rate frames of data comprising: means 4, considered broadly as the control processor means for providing a transmit power signal, a variable gain transmitter means 7 for receiving the transmit power signal and for amplifying said variable rate frames in accordance with the transmit power signal and a rate of said variable rate frames of data generated by means 6, means 6 considered as the variable data source for providing said variable rate data frames and said frames signal.

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7. Claims 15-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Gilhousen et al US patent No. 5,485,486.

Gilhousen et al discloses a method and apparatus having the steps of determining a characteristics of a propagation path between a first station and a second station see col.19, lines 35-37; selecting a power control step size in accordance with said characteristics of the propagation path see col. 19, lines 53-56; receiving closed loop power control commands at said communication station see col. 17, lines 31-34 and col. 18, lines 31-34; adjusting said transmission power energy of said communication station in accordance with said closed loop control commands and said power control step size see col. 17, lines 34-35, col. 18, lines 45-65 and col. 19, lines 63-65.

As per claims 16 and 19, the step size is determined in accordance with the relative velocity and/or velocity between said communication station and said second communication station see figs. 2A-2D.

As per claim 17, the step size is determined in accordance with detection of frame errors on a forward link see col. 19, lines 50-57.

As per claim 18, the step size is determined in accordance with detection of low forward link received power see col. 19, lines 50-57.

As per claim 20, the step size is determined in accordance with a determination that the second station is adversely located see col. 11, lines 19-31.

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As per claim 21, the step size is determined in accordance with a determination that received signal forward link strength is low see col. 19, lines 50-57.

As per claim 22, the command request is a one-bit command see col. 15, lines 35-37.

8. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henriksson in view of English et al US Patent No. 5,528,593.

Henriksson discloses every feature of the claimed invention but fail to explicitly teach that the control processor determines a reference rate transmit power level and at least one additional transmit power level in accordance with said reference rate transmit power.

In the same field of endeavor, English et al disclose et method and apparatus for controlling power in a variable rate communication system generating a reference rate transmit power level for a full rate transmission and at least one additional reference power level in accordance with the reference rate transmit power level see col. 5, lines 12-30.

It would have been obvious to one skilled in the art to incorporate English et al into Henriksson as it would have provided the system with the capability to transmit the signal information at different power level. Such combination would have also reduced power consumption since only parts of the frame containing data would have been transmitted (English et al col. 2, lines 1-4).

As per claim 10, Henriksson teaches a demultiplexer 5 having an input for receiving a frame quality message and the processor 4 is responsive to the frame quality message see fig. 1.

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As per claim 11, it would have been obvious that the variable gain transmitter of Henriksson would have included a gain selector so as to selectively amplify the transmitted signal as to provide more amplification to the weakest signal and less amplification to the strongest signal.

Response to Arguments

9. Applicant's arguments filed 6/21/01 have been fully considered but they are not persuasive. It is alleged that the specification, as filed, more specifically, pages 11, line 9-31, page 12, lines 23-31 and fig. 3, provides support for the claimed subject matter as recited in claim 1. However, it is noted that such section of the specification is silent about the logical steps recited in claim 1. For instance, there is no teaching the noted portion of the specification of **“determining whether or not a signal increase is a result of random or continuing fading and that if the cause of the increase is a random fade condition, then reducing the transmission power at a first rate and/or a second rate; if the cause of the increase is a continuing fade then maintaining the transmission power.”** The specification only teaches that errors in a mobile communication come in two types. Those that **random** and those that are result of a **change in the propagation path**. See page 12, lines 23-25. The specification further teaches that the base station determines whether the errors reported was a **random nature** or a **genuine fading condition** see col. 5, lines 4-4-8.

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10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 305-3988 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

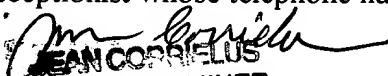
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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (703) 305-4023.

The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.


JEAN CORRIELUS
PATENT EXAMINER

July 6, 2001